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MONTANA LEGISLATIVE HISTORY

Chapter 347 19 91

Bill H 608 S _____

Original bill & history ✓c

H. Committee on Local Govt.

Hearing Date(s) 2/14 ✓c

2/16 _____c

_____c

_____c

Date Out 2/23 _____c

S. Committee on Local Govt.

Hearing Date(s) 3/12 ✓c

3/16 _____c

_____c

_____c

3/19

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

HOUSE FINAL STATUS

HB 602

3/09	3RD READING CONCURRED	46	0
	RETURNED TO HOUSE		
3/14	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 81		
	EFFECTIVE DATE: 7/01/91		

HB 600 INTRODUCED BY DRISCOLL

REVISE UNEMPLOYMENT INSURANCE MAXIMUM
BENEFIT AMOUNT SCHEDULE

2/04	INTRODUCED		
2/04	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/05	FIRST READING		
2/05	FISCAL NOTE REQUESTED		
2/12	FISCAL NOTE RECEIVED		
2/12	FISCAL NOTE PRINTED		
2/14	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/25	2ND READING PASSED	73	24
2/26	3RD READING PASSED	68	31
	TRANSMITTED TO SENATE		
2/26	FIRST READING		
2/26	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/19	HEARING		
3/27	TABLED IN COMMITTEE		

HB 601 INTRODUCED BY BRADLEY, ET AL.

PAY JUDGMENT AGAINST HIGHWAY DEPARTMENT

2/05	INTRODUCED
2/05	REFERRED TO APPROPRIATIONS
2/05	FIRST READING
3/23	HEARING
3/23	TABLED IN COMMITTEE

HB 602 INTRODUCED BY DRISCOLL

BUDGET OF ENTITY APPOINTED BY COUNTY COMMISSION
TO BE APPROVED BY COMMISSION

2/05	INTRODUCED		
2/05	REFERRED TO LOCAL GOVERNMENT		
2/05	FIRST READING		
2/14	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	PLACED ON CONSENT CALENDAR		
2/23	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
2/25	FIRST READING		
2/25	REFERRED TO LOCAL GOVERNMENT		
3/12	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/18	2ND READING CONCURRED	49	0
3/19	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/23	2ND READING AMENDMENTS CONCURRED	91	0
3/25	3RD READING AMENDMENTS CONCURRED	94	2
4/01	SIGNED BY SPEAKER		
4/01	SIGNED BY PRESIDENT		

4/01 TRANSMITTED TO GOVERNOR
 4/04 SIGNED BY GOVERNOR
 CHAPTER NUMBER 347

EFFECTIVE DATE: 4/04/91

HB 603 INTRODUCED BY J. BROWN
 APPROPRIATION FOR LEGISLATIVE DELEGATION
 VISIT TO SISTER-STATE OF KUMAMOTO

2/05 INTRODUCED
 2/05 REFERRED TO APPROPRIATIONS
 2/05 FIRST READING
 3/08 HEARING
 3/23 TABLED IN COMMITTEE

HB 604 INTRODUCED BY J. BROWN
 ALLOW ADULTS TO OBTAIN INFORMATION
 DISCLOSING BIRTH OUT OF WEDLOCK
 BY REQUEST OF THE DEPARTMENT OF HEALTH AND
 ENVIRONMENTAL SCIENCES

2/05 INTRODUCED
 2/05 REFERRED TO HUMAN SERVICES & AGING
 2/05 FIRST READING
 2/20 HEARING
 2/22 COMMITTEE REPORT—BILL PASSED AS AMENDED
 2/22 PLACED ON CONSENT CALENDAR
 2/27 3RD READING PASSED

98 2

2/27 TRANSMITTED TO SENATE
 2/27 REFERRED TO JUDICIARY
 3/04 FIRST READING
 3/26 HEARING
 4/01 TABLED IN COMMITTEE

HB 605 INTRODUCED BY COHEN, ET AL.
 LIMITING SERVICE ON STATUTORY COMMITTEES TO 6 YEARS

2/05 INTRODUCED
 2/05 REFERRED TO STATE ADMINISTRATION
 2/05 FIRST READING
 2/15 HEARING
 2/15 COMMITTEE REPORT—BILL PASSED
 2/23 2ND READING PASSED AS AMENDED
 2/26 3RD READING FAILED

54 46
 47 52

HB 606 INTRODUCED BY O'KEEFE, ET AL.
 ESTABLISH A YOUTH VOTING PROGRAM

2/05 INTRODUCED
 2/05 REFERRED TO STATE ADMINISTRATION
 2/05 FIRST READING
 2/05 FISCAL NOTE REQUESTED
 2/08 FISCAL NOTE RECEIVED
 2/08 FISCAL NOTE PRINTED
 2/19 HEARING
 2/20 COMMITTEE REPORT—BILL PASSED AS AMENDED
 2/23 2ND READING PASSED
 2/26 3RD READING PASSED

69 30
 71 26

2/27 TRANSMITTED TO SENATE
 2/27 FIRST READING
 2/27 REFERRED TO STATE ADMINISTRATION

1 House BILL NO. 602

2 INTRODUCED BY Dr. [Signature]

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE
5 PROPOSED BUDGET OF ANY BOARD, COMMISSION, OR GOVERNING
6 ENTITY APPOINTED BY THE COUNTY COMMISSIONERS IS SUBJECT TO
7 APPROVAL BY THE COUNTY COMMISSIONERS; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. Section 1. Budgets of appointed boards
12 and commissions. The proposed budget of any board,
13 commission, or other governing entity appointed by the
14 county commissioners is subject to approval by the county
15 commissioners.

16 NEW SECTION. Section 2. Codification instruction.
17 [Section 1] is intended to be codified as an integral part
18 of Title 7, chapter 6, part 23, and the provisions of Title
19 7, chapter 6, part 23, apply to [section 1].

20 NEW SECTION. Section 3. Effective date. [This act] is
21 effective on passage and approval.

-End-

INTRODUCED B
HB 602

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By DIANA WYATT CHAIR, on February 14, 1991, at
3:00 p.m.

ROLL CALL

Members Present:

Diana Wyatt, Chair (D)
Jessica Stickney, Vice-Chair (D)
Joe Barnett (R)
Arlene Becker (D)
Vivian Brooke (D)
Dave Brown (D)
Brent Cromley (D)
Paula Darko (D)
Tim Dowell (D)
Budd Gould (R)
Stella Jean Hansen (D)
Harriet Hayne (R)
Ed McCaffree (D)
Tom Nelson (R)
Jim Rice (R)
Sheila Rice (D)
Richard Simpkins (R)
Norm Wallin (R)

Staff Present: Bart Campbell, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON HB 106

Presentation and Opening Statement by Sponsor:

REP. HARRINGTON, House District 68, Butte, stated HB 106 is a county option gambling bill proposed for home rule counties. Many local governments would have serious problems if it weren't for the gambling they now have. HB 106 is a local option bill that gives people the right to vote for something they want. This bill applies to two counties; Butte-Silverbow and Deer Lodge-Anaconda. Amendments to extend it to all counties would be looked on favorably. HB 106 can help local governments raise additional funds. It will be a vote of the people.

Questions From Committee Members:

REP. WALLIN asked if a property owner owned 60% of the property involved, that one person could put through a RID or kill it.

REP. GRADY said that was not the intent of the bill. It is 60% of the landowners not 60% of the land owned.

REP. SIMPKINS asked if there was a compromise of 51% of the property owner rather than 60%. REP. GRADY said the people are who should propose the RID since they pay for it. If 60% of the people want it, then they should propose it and support the cost. REP. SIMPKINS asked Jane Jelinski if the counties have emergency provisions to take care of the health, safety, and welfare of the people in the county budgets. Ms. Jelinski said yes to respond to an emergency but in terms of major long term improvements no.

REP. J. RICE asked Jane Jelinski if HB 396 is giving the equivalent rule to those districts outside the city limits. Ms. Jelinski replied yes but this bill provides a single way to accomplish it, while now, there are a variety of ways to accomplish it.

Closing by Sponsor:

REP. GRADY stated that people are willing to pay more taxes for rural improvement districts; but it needs to be a majority of the property owners not the minority.

HEARING ON HB 602

Presentation and Opening Statement by Sponsor:

REP. DRISCOLL, House District 92, Billings, stated HB 602, with amendments, allows the local governing body to oversee the taxes and budgets of appointed trade boards and commissions. The only taxing authority should be elected officials.

Proponents' Testimony:

Mike Mathew, Chairman, Yellowstone County Commission, stated HB 602 is an accountability bill. Tax dollars belong in the hands of elected officials not appointed board members. He agrees with the amendments.

Art Kleinjan, Blaine County Commissioner, supported HB 602 with amendments.

Ann Marie Dussault, Missoula County Commissioner, stated Commissioners appoint boards that have powers based on statute. Some boards refuse to bring to the County Commissioners their budget as well as the authority to raise the money needed. The appointed board has the ability to levy taxes and to spend tax monies. Who are they accountable to? She suggested amending the

section dealing with levying authority and number of mills to be assessed.

Opponents' Testimony: None

Questions From Committee Members:

REP. SIMPKINS asked REP. DRISCOLL if he agreed with the amendments. He replied yes.

REP. J. RICE asked REP. DRISCOLL what other trade board this bill applied too. He said it applies to mosquito, port authority, library boards and others.

Closing by Sponsor:

REP. DRISCOLL stated the amendments are important. The power to tax by elected officials is not very popular, but more popular than being taxed by people who aren't elected.

HEARING ON HB 517

Presentation and Opening Statement by Sponsor:

REP. GOULD, House District 61, Missoula, stated if a municipality were to disincorporate, there could be severe problems caused in creating public safety districts to take care of the people living in the disincorporated area. HB 602 was drafted to insure that the Legislature would not have a special session to take care of the disincorporated area.

Proponents' Testimony:

Barbara Evans, Missoula County Commissioner, provided written testimony. EXHIBIT 7

Vance Bennett, Missoula Businessman, stated there is political unrest in Missoula. It would be difficult to provide police protection for disincorporated areas under the current law.

REP. TOOLE, stated HB 517 provides a safety net for a community who does disincorporate and should be in statute.

James Lofftus, Montana Fire Districts Association, supported HB 517. It would give the County Commissioners the power to provide police and fire protection if an area wishes to disincorporate.

Opponents' Testimony:

James Nugent, City Attorney, Missoula, provided written testimony. EXHIBIT 8

Alec Hansen, Montana League of Cities and Towns, stated disincorporation is not easy to do. HB 517 promotes controversy

town. If an area were 50% surrounded, that area could be incorporated into the city. The sponsor wanted an entity that was surrounded but with open ends. REP. GOULD stated if an area has a railroad going around it, that area could be annexed into the city because it would be considered "wholly surrounded"; and said HB 201 was a bad bill.

Vote: Motion to amend carried unanimously.

Motion: REP. D. BROWN moved to add amendment No 3: Page 2, Line 10, strike "transportation" and insert "railroad".

Discussion:

Bart Campbell asked REP. BROWN if railroad were put on Line 10, would he like to restore the language on Page 1, Line 18. REP. BROWN said yes if it were needed to protect the integrity of the amendment. Mr. Campbell stated that if Line 18 is left as is and change Line 10, it would mean land that is "wholly surrounded" could be annexed by a city. REP. J. RICE stated the amendment would be narrowing the language from "transportation" to "railroads". We aren't taking out "transportation" entirely. Mr. Campbell said making the change REP. BROWN suggests, the bill would say that land that is "wholly surrounded" can be annexed with the exceptions of agriculture, mining, smelting, or refining; and with regard to railroad property, an 80% surrounded area will be treated as "wholly surrounded" and could annex railroad property. REP. WALLIN stated the amendment wouldn't do anything unless the industrial park or railroad parts were deleted. REP. CROMLEY stated when the word "transportation" is changed to "railroad", the amendment becomes simple; but the title must be changed.

Motion/Vote: REP. WALLIN moved to Table HB 201. Motion failed on a tie vote with REPS. DARKO, DOWELL, S. J. HANSEN, BROOKE, BECKER, STICKNEY, CROMLEY, S. RICE, and WYATT voting no.

Vote: Motion to amend carried unanimously.

Motion/Vote: REP. STICKNEY MADE A SUBSTITUTE MOTION THAT HB 201 DO PASS AS AMENDED. Motion failed on a tie vote with REP. STICKNEY, BARNETT, GOULD, HAYNE, McCAFFREE, NELSON, J. RICE, SIMPKINS, and WALLIN voting no. EXHIBIT 10

EXECUTIVE ACTION ON HB 602

Motion: REP. STICKNEY MOVED HB 602 DO PASS.

Motion/Vote: REP. NELSON moved to adopt the amendments. EXHIBIT 11 Motion carried unanimously.

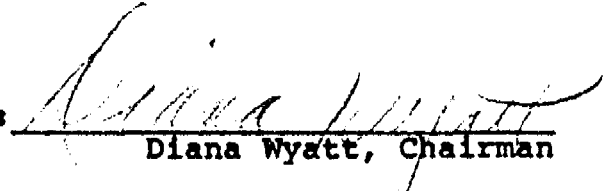
Motion/Vote: REP. J. RICE MADE A SUBSTITUTE MOTION THAT HB 602 DO PASS AS AMENDED. Motion carried unanimously.

HOUSE STANDING COMMITTEE REPORT

February 15, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Local Government report that House Bill 602 (first reading copy -- white) do pass as amended

Signed: 

Diana Wyatt, Chairman

And, that such amendments read:

1. Title, line 4.

Following: "THAT"

Insert: ", WITH RESPECT TO TAX AND FEE MONEY,"

2. Title, line 5

Following: "OF"

Insert: "AND THE NUMBER OF MILLS TO BE ASSESSED BY"

3. Title, line 6.

Following: "BY"

Strike: "THE COUNTY COMMISSIONERS IS"

Insert: "A LOCAL GOVERNMENT ARE"

4. Title, line 7.

Following: "BY"

Strike: "THE COUNTY COMMISSIONERS"

Insert: "THAT LOCAL GOVERNMENT"

5. Page 1, line 12.

Strike: "The"

Insert: "With respect to tax and fee money, the"

Following: "of"

Insert: "and the number of mills to be assessed by"

6. Page 1, line 13.

Strike: "the"

Insert: "a"

4:05
2-15-91
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February 15, 1991
Page 2 of 2

7. Page 1, line 14.

Strike: "county commissioners is"

Insert: "local government are"

Following: "by"

Strike: "the county"

8. Page 1, line 15.

Strike: "commissioners"

Insert: "that local government"

Amendments to House Bill No. 602
First Reading Copy

For the Committee on Local Government

Prepared by Bart Campbell
February 15, 1991

1. Title, line 4.
Following: "THAT"
Insert: ", WITH RESPECT TO TAX AND FEE MONEY,"
2. Title, line 5
Following: "OF"
Insert: "AND THE NUMBER OF MILLS TO BE ASSESSED BY"
3. Title, line 6.
Following: "BY"
Strike: "THE COUNTY COMMISSIONERS IS"
Insert: "A LOCAL GOVERNMENT ARE"
4. Title, line 7.
Following: "BY"
Strike: "THE COUNTY COMMISSIONERS"
Insert: "THAT LOCAL GOVERNMENT"
5. Page 1, line 12.
Strike: "The"
Insert: "With respect to tax and fee money, the"
Following: "of"
Insert: "and the number of mills to be assessed by"
6. Page 1, line 13.
Strike: "the"
Insert: "a"
7. Page 1, line 14.
Strike: "county commissioners is"
Insert: "local government are"
Following: "by"
Strike: "the county"
8. Page 1, line 15.
Strike: "commissioners"
Insert: "that local government"

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Esther Bengtson, on March 12, 1991,
at 3:16 p.m.

ROLL CALL

Members Present:

Esther Bengtson, Chairman (D)
Eleanor Vaughn, Vice Chairman (D)
Thomas Beck (R)
Dorothy Eck (D)
H.W. Hammond (R)
Ethel Harding (R)
John Jr. Kennedy (D)
Gene Thayer (R)
Mignon Waterman (D)

Members Excused: none

Staff Present: Connie Erickson (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: none

HEARING ON HB-295

Presentation and Opening Statement by Sponsor: Representative Steve Benedict, District 64, said this bill is a response to a simple problem. No county officers, other than the sheriffs, can leave the county for more than 15 days without the permission from the commissioners. It has been this way since 1947. Right now, the Clerk & Recorder in his county has to get permission to take a normal vacation, and this is out-of-date. This could lead to some political playing around, and this bill would take care of this. It would allow county officers to go on vacation without fear of losing their office. He did not say that would happen, but the possibility is there that a county commissioner with differences with an elected officers could make life

suggesting that the committee to as the House does? Senator Beck added that a depreciation schedule on any vehicle would be considered by any going institution. If the vehicle depreciates faster than 10 years then they would not allow those payments.

HEARING ON HB-602

Presentation and Opening Statement by Sponsor: Representative Jerry Driscoll, District 92, said this bill allows local governing bodies to oversee mill levies that are assessed by appointed boards. He did not know this wasn't the case, and last session he packed a bill that expanded the ability of trade ports to allow them to put 2 mills on the people. He thought this was with the oversight of the County Commissioners, but it turned out that it was not. The bill is about a policy decision of the Legislature as to whether appointed boards be able to tax people, or should that power be only invested in elected officials. He understood that the information that the libraries have an amendment, and the Missoula parking commission sent a letter that they did not like this bill either.

Proponents' Testimony: Gordon Morris, Executive Director, MACo, said this is not as straight forward as Representative Driscoll would have the committee believe. This bill is good, sound government legislation. Appointed boards and commissions by virtue of their appointments have no accountability to the electorate, and they must be accountable to someone. If they are appointed by the County Commissioners, then it is logical from a good government perspective, that they be accountable to the County Commissioners who are in turn accountable to the electorate. There are many instances that fall through the cracks, but there are a couple that the committee not consider this a red flag for attention. This is nothing other than logical and consistent with sound principles of government from the standpoint that you have to be accountable to the people that appoint you, especially if you are not accountable to the electorate. These people are appointed and have no accountability to the voting public that pays the tax bill, and therefore we are insuring that the appointees are in fact accountable to someone who is accountable to the electorate.

Dave Anderson, Jefferson County Commissioner, and MACo, said as an elected official supported this bill (Exhibit #1).

Opponents' Testimony: Gloria Hermanson, Montana Cultural

Advocacy, said they are concerned that this bill includes libraries. If county commissioners have control over the library budget, the county commissioners can control what is bought with these funds. This leaves an opening for possible future censorship of information which the Advocacy is very concerned about. She proposed 2 amendments (Exhibit #2). If libraries are amended out of the bill we have no problem, and can support the bill.

Debbie Schlesinger, Legislative Chair, Montana Library Association, opposed this bill if it includes libraries. She said they would not oppose it if libraries are exempted. She said Library Board of Trustees under the statutes have authority over the budget of the library, and she read from the Attorney General's opinion #91, which spoke to this very question, and withheld that "a board of county commissioners does not have the authority to modify the decision of county library trustees concerning wage and salary...". (Exhibit #3). This is traditional in this state, and is the way libraries have been set up. It is the way libraries are set up in many states, and there are very good reasons that statutes go into detail about the powers of the library trustees will be, and why they are called library trustees. The library trustees are the stewards of the public the library and its resources. We think this would be a very bad precedent to take traditional powers away from boards of library trustees. To her knowledge, these boards have never abused these powers, and who work very closely with counties and cities in setting their budgets. Nevertheless, they have the ultimate authority over their budget for the library. We urge the committee to not pass this bill unless libraries are exempted.

Richard Miller, Montana State Librarian, MTS LC, opposed this bill (Exhibit #4). Mr. Miller wanted to address Mr. Morris' comment about good government. There is a tradition of public libraries in our country, not just in Montana. Benjamin Franklin established the first public library in the 1780's in Philadelphia, and it stated that these libraries are to present points of view that take everyone's point of view into account. They can not afford to be controlled by political interests, no matter what stripe those political interests are. The autonomy of public library boards, once appointed, those must be independent and make decisions on their own. They must be apart from that political process to a certain degree. The whole tradition and idea of public libraries in this country of libraries providing a place for people to educate themselves has contributed more to good government than standing on a steaming train that says "Good Government" and eliminates a process that has been successful for hundreds of years. He urged the

SENATE LOCAL GOVERNMENT COMMITTEE

March 12, 1991

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committee to either amend this bill or give it a do not pass.

Senator Waterman said that Bob James from Great Falls Library Board called her to register his opposition to HB-602.

Questions From Committee Members:

Senator Hammond asked how many boards are like this that can put mills on the tax roll? Mr. Morris said there are only the library board and the port authority boards that can levy a mill. Senator Hammond asked if they can levy up to a certain mill? Mr. Morris said yes that is true if not for I-105. The AG opinion states that libraries, under I-105, are a different taxing entity, and so they are totally outside the context of county levies when calculating I-105. Senator Hammond said before I-105 they could levy a certain mill? Mr. Morris said that was correct, but it is a case like school districts, under the AG ruling, libraries adopt a budget. Then they present it to the commissioners who in the same fashion as with school districts, they would attach the mill and put in on the tax levy requirement schedule for library purchases. The AG opinion said that the commissioners had no authority to question, challenge, or revise the budget, hence the mills to be levied, for a library purposes. Senator Hammond said someone set a limit? Ms. Schlesinger said the limit is in state statute.

Senator Beck asked if they are limited by 2 mills? Mr. Morris said the limit is 5 mills. Senator Beck said what is the goal of this bill? Mr. Morris said the glaring example of problems related to libraries is if commissioners set a salary policy for county employees on a county wide basis of 3% raise, this has no bearing on what the Library Trustees can and do offer for salary. He has seen this in city and county government from a person perspective where the city adopts a salary position that is totally ignored by an autonomous taxing entity. In fact the board is appointed, and we are just trying to correct that. This is probably the number one problem.

Senator Waterman asked Representative Driscoll what brought this bill about? Representative Driscoll said the port authority levied 2 mills, and gave \$22,000 to the Billings Chamber of Commerce of his tax money, and he doesn't like it. That's why the bill is here. He said this bill had nothing to do with libraries.

Senator Beck asked Representative Driscoll if he would agree with the amendment presented by the libraries? Representative Driscoll said he had no problem with libraries, and this was inadvertent. Senator Beck asked if he was after the port

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SENATE LOCAL GOVERNMENT COMMITTEE

March 12, 1991

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authorities? Representative Driscoll said he understands the library issue. Taxing authority needs to be accountable to someone. He said he knew of only three boards with this authority: parking commissions, library and port authorities. Senator Beck said that Representative Driscoll was after port authorities? Representative Driscoll said he really thought that taxing authority should be invested in elected officials. He did see the libraries point with censorship and county commissioners. There needs to be some protection of minority interests. With the parking commission he was not sure what needed to be protected. The right to park anywhere, but the port authority it is simply a policy decision of who gets to tax who? He carried the bill, and he thought they would assess 1 mill the first year until they got on their feet. After that they put out bonds, and put the full 2 mills on. After they put the full 2 mills on, the first order of business was to give \$22,000 to the Billings Chamber of Commerce and secondly they hired a guy for \$58,000. They haven't done a damn thing, but they've spent all our 2 mills. So this is the point of the bill. This isn't vindictive, just even!

Senator Waterman asked Mr. Morris why Yellowstone County Commissioners are not here, and how do they feel about this bill? Mr. Morris said that as Executive Director of MACo he could say comfortably that he was speaking for Yellowstone County today. They are very interested in this, but one county commissioner had to fly back, another is on his way to Washington D.C.. They would have been here. Do not think this is only a concern of Yellowstone county. Jefferson, Choteau, Blaine and other counties are also interested.

Senator Thayer asked Mr. Miller if this bill would hold up under the Supreme Court ruling? Mr. Miller said libraries try to stay out of court, but he felt that yes, this legislation would be invalidated under the Supreme Court ruling.

Senator Vaughn said she had two calls from Lincoln County Library, and a State Library member from her area are in strong support of this amendment to the bill.

Senator Hammond said that Representative Driscoll answered his question on how many boards can do this? He gave two examples of abuse, and the one he is after. This would have been helpful right away he would have been sold.

Closing by Sponsor: Representative Driscoll said he had no obligation to the library amendment. They are afraid of censorship, and he is certainly not for that. But he felt this

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is a policy decision: should trade ports and parking authorities have the power to tax or should elected officials have the power to tax? This is the decision. The libraries made a strong case that maybe they should not be included because they are limited by the number of mills. The rest certainly should have budget oversight by the elected officials that appoint them.

HEARING ON HB-625

Presentation and Opening Statement by Sponsor: Representative Linda Nelson, District 19, said this bill would expand somewhat the borrowing powers of a hospital district. As you are aware, both the state and federal government reimbursement to health care facilities has not kept pace with the actual cost of providing services. Insufficient funding from the state and federal government has increased the need for funding at the local level, especially in the rural areas. Although a hospital district provides an avenue to produce funding, its borrowing powers are limited. This bill will untie a hospital's hands, and grant borrowing powers in a simplified manner when a transaction is secured. Passage of this bill will expedite the borrowing process. The trustees of a hospital district have a fiduciary responsibility to the residents in a district, and they must insure that the transactions are secured. This bill will help to insure that availability of an adequate vehicle to provide funding for health services at the local level. She proposed amendments that are rather extensive, and the proponents will address them (Exhibit #5).

Proponents' Testimony: Katherine Donnelley, Montana Hospital Administration, said the reason for hospital district funding bill is that some districts have expressed concern that their methods by which they can borrow money are very limited under current law. Several AG opinions hold that the only way hospital districts may borrow money is under the bond procedure prescribed by statute. Hospital districts however, are different from many other government entities in that the tax revenue provides very little of their operating budget. The tax revenue is not really what hospital districts are about. The original bill stated that the hospital district borrowing power should be expanded to allow hospitals to borrow money by the issuance of its mortgage or other fully secured transaction. Recently, Mae Nan Ellingson, consul for the Hospital Board of Investments, pointed out her concerns that this bill when passed in the House was not sufficiently clear, and it did not have all the requirements that she would like to see to work with the Hospital Board of

JEFFERSON COUNTY COMMISSIONERS

COURTHOUSE, P.O. Box H

BOULDER, MT. 59632

(406) 225-4251

COMMENTS IN SUPPORT
HOUSE BILL 602
12 MARCH 91

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 1

DATE 3-14-91

BILL NO. HB-602

SENATE LOCAL GOVERNMENT COMMITTEE
THE HONORABLE ESTHER BENGSTON, CHAIR

As elected officials, with absolute liability and responsibility for the taxpayers' dollar, it is only reasonable that we must have absolute authority in the levying of money to fund all taxpayer-supported functions of local government.

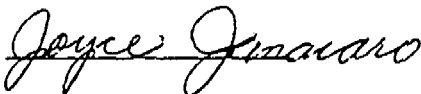
To allow appointed boards the latitude of dictating at what level they ARE GOING TO BE FUNDED is simply not good government. When any appointed board has the authority to demand and receive funding, some other program or service is usually going to suffer the consequences, because of 105 limitations. Those of us who have to face the voters should be making the decisions of where their money is going to be spent and in what amount.

H. B. 602 begins to address this problem and we respectfully urge your unanimous "DO PASS" recommendation.

Respectfully yours,



Dave Anderson, Chair
Jefferson County Commission



Joyce Janacaro
Commissioner

NOT AVAILABLE
FOR SIGNATURE

Jim Stout
Commissioner

Amendments to House Bill No. 602

1. Title, line 7.

Following: "ENTITY"

Insert: "EXCEPT BOARDS OF TRUSTEES OF PUBLIC LIBRARIES"

2. Page 1, line 16.

Following: "entity"

Insert: "with the exception of Boards of Trustees of public libraries,"

OF
MONTANA
ATTORNEY GENERAL
MIKE GREELY
JUSTICE BUILDING, 215 N. SANDERS, HELENA, MONTANA 59601
TELEPHONE (406) 444-2028

NOV 17 1986

SENATE LOCAL GOVT. COMM. ATTORNEY

EXHIBIT NO. 3

DATE 3-12-91

BILL AB INION NO. 91 HB-602

VOLUME NO. 41

COUNTIES - Authority of county library trustees;

COUNTY COMMISSIONERS - Authority over county library matters;

LIBRARIES - Authority of library trustees;

TAXATION AND REVENUE - Obligation of county commissioners to levy property taxes for county library expenses;

MONTANA CODE ANNOTATED - Sections 22-1-304, 22-1-309(6), 22-1-310, 39-31-103(1), 39-31-208;

OPINIONS OF THE ATTORNEY GENERAL - 35 Op. Att'y Gen. No. 71 (1974), 39 Op. Att'y Gen. No. 5 (1981), 39 Op. Att'y Gen. No. 38 (1981), 41 Op. Att'y Gen. No. 45 (1986).

- HELD: 1. A board of county commissioners does not have the authority to modify the decision of county library trustees concerning wage and salary amounts for library employees.
2. A board of county commissioners does not have the authority to modify an annual library budget adopted by county library trustees.
3. A board of county commissioners does not have the authority to refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by county library trustees.

13 November 1986

John P. Connor, Jr.
Jefferson County Attorney
Jefferson County Courthouse
Boulder MT 59632

Dear Mr. Connor:

You have requested my opinion concerning the following questions:

1. Does the Jefferson Board of County Commissioners have the authority to override a determination by the trustees of the Jefferson County Library to grant pay increases to library personnel?
2. Does the Jefferson Board of County Commissioners have the authority to modify the annual budget submitted by the trustees of the Jefferson County Library even though the amount of property taxes necessary to satisfy such budget falls within the statutory limit of five mills under section 22-1-304(1), MCA?
3. Does the Jefferson Board of County Commissioners have the discretion to levy no millage for funding of the Jefferson County Library?

I conclude that each of these questions must be answered negatively.

The Jefferson County Library was established under sections 22-1-301 to 22-1-317, MCA. In summary those provisions authorize the formation of a city, county, or consolidated city-county free public library. Once created the library is governed by a board of trustees with broad powers and duties, including the obligation to prepare an annual budget "indicating what support and maintenance of the public library will be required from public funds" and to employ a chief librarian and such other employees as are deemed necessary to administer the library. §§ 22-1-309(6), 22-1-310, MCA. The latter responsibility further expressly extends to fixing and paying library employees' salaries and compensation. § 22-1-310, MCA. The annual budget must be submitted by the trustees to the governing body of the city or county which, in turn, may impose a property tax levy not to exceed five mills for the purpose of raising the funds required to maintain the library. § 22-1-304(1), MCA.

defined in section 39-31-103(1), MCA, and used throughout the public employee collective bargaining law. The unique facts and statutory considerations underlying Municipal Employees Local 2390 clearly do not stand for the proposition that the trustees here are subject to the control of the county commissioners concerning questions of library employee compensation. The trustees' express authority under section 22-7-310, MCA, to fix such employees' compensation accordingly prohibits the commissioners from establishing a different wage level.

The trustees' power under section 22-1-309(6), MCA, to adopt an annual budget forecloses the board of county commissioners from effecting changes in such budget. The obvious purpose of the trustees' authority in library budget matters is to allow application of their informed judgment to fiscal issues. Such authority is, moreover, an integral aspect of the trustees' independence without which many of their other express powers would be rendered meaningless. The board of county commissioners' only role in library budget matters is to assign a property tax levy amount, which presently cannot exceed five mills, sufficient to satisfy the budgetary needs. The commissioners' function is thus purely ministerial with respect to the imposition of the levy.

Finally, use of the permissive "may" in section 22-1-304(1), MCA, does not, in view of the trustees' independent budgetary authority, grant the county commissioners discretion not to levy any millage, since the existence of such discretion would effectively supersede the trustees' express powers. Section 22-1-304(1), MCA, must instead be read together with the trustees' broad control over library operations and, if so construed, does not permit an interpretation which leaves within the county commissioners' determination whether some or none of the millage necessary to meet library budget demands should be assessed. See 39 Op. Att'y Gen. No. 5 (1981).

THEREFORE, IT IS MY OPINION:

1. A board of county commissioners does not have the authority to modify the decision of county library trustees concerning wage and salary amounts for library employees.

All monies deriving from such levy must be placed into the public library fund, may not be used for any purpose other than operation of the library, and cannot be distributed from the fund without order or warrant of the trustees. § 22-1-304(4) and (5), MCA.

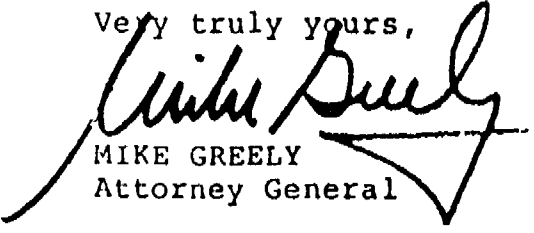
This brief description of the library trustees' powers and duties reflects substantial autonomy from the governing body of the local governmental unit within which the library has been established. See Municipal Employees Local 2390 v. City of Billings, 171 Mont. 20, 24, 555 P.2d 507, 509 (1976) ("[u]nder the Library Systems Act, as a whole, the board of trustees is given independent powers to manage and operate the library"). The trustees are thus quite clearly granted direct responsibility for administering the library in a manner largely independent of city or county control. That the fiscal operation of the library is heavily interrelated with that of the local government does not, at least insofar as the trustees have been accorded explicit authority, mean their determinations are subject to plenary review and possible modification by, in this instance, a board of county commissioners. Any different conclusion would eviscerate the trustees' authority and render them little more than the county's agents--a conclusion which is simply unsupported by a fair reading of the involved statute.

I recognize that library employees may well be considered city or county employees for certain purposes. See Municipal Employees Local 2390 v. City of Billings, *supra*; see 39 Op. Att'y Gen. No. 38 (1981) (soil conservation district and district court employees considered county employees); 35 Op. Att'y Gen. No. 71 (1974) (fire district employees considered county employees). However, such status does not subordinate the trustees' express grant of authority to fix compensation levels to county commissioner control. Cf. 41 Op. Att'y Gen. No. 45 (1986) (mayoral appointment of administrative assistant not subject to city council approval). Municipal Employees Local 2390, in particular, does not militate against the trustees' authority in such matters as to library employees; there the Court merely concluded that a library employee, who had participated in union representation election under section 39-31-208, MCA, and became part of a diverse city employee bargaining unit, was subject to the terms and conditions of the collective bargaining agreement covering such unit and to which the City of Billings was signatory. Under those circumstances the city was held to be the employee's "public employer" as that term is

13 November 1986

2. A board of county commissioners does not have the authority to modify an annual library budget adopted by county library trustees.
3. A board of county commissioners does not have the authority to refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by county library trustees.

Very truly yours,



MIKE GREELY
Attorney General

like to stand up and speak but wants their testimony entered into the record.

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 4

DATE 3-12-91

BILL NO. HB-602

WITNESS STATEMENT

NAME Richard Miller

BUDGET

ADDRESS 201 S. Hannaford / Helena, MT

WHOM DO YOU REPRESENT? MT State Library Commission

SUPPORT _____ OPPOSE ☒ AMEND ☒

COMMENTS: H.B. 602 inadvertently jeopardizes the traditional independence and autonomy of public library boards of trustees in Montana. Members of these boards are appointed by local governments, but once appointed, are empowered to act quite autonomously, within the framework of state statutes. I urge the acceptance of two amendments to H.B. 602 to exclude public library boards from this legislation. Please vote to retain the autonomy of our public library boards.

Richard T. Miller

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Esther Bengtson, on March 14, 1991,
at 3:40 p.m.

ROLL CALL

Members Present:

Esther Bengtson, Chairman (D)
Eleanor Vaughn, Vice Chairman (D)
Thomas Beck (R)
Dorothy Eck (D)
H.W. Hammond (R)
Ethel Harding (R)
John Jr. Kennedy (D)
Mignon Waterman (D)

Members Excused: Gene Thayer (R)

Staff Present: Connie Erickson (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: none

HEARING ON HB-230

Presentation and Opening Statement by Sponsor: Representative Don Larson, District 65, said this bill will allow a fire district to establish capital improvement fund. This allows fire districts to do something they are not specifically authorized to do in the law. County Attorneys are legal counsel for many of these fire districts, and they have said they can not do this without having it specifically stated in the law. So this will clarify the law to allow establishment of a capital improvement fund. As you know, fire trucks are more expensive, and so capital improvements are a major budget item. We ask the committee to consider their ability to generate these capital improvement funds.

SENATE LOCAL GOVERNMENT COMMITTEE

March 14, 1991

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Closing by Sponsor: Representative Cohen said the concerns expressed about noise pollution is the not the real concern. He has spent time in wrecking yards, and noise is not the major concern. His concern is water pollution. This subdivision is not on public water they have wells. The wrecking facility is uphill from them. The soils are mixed glacier till which is very porous. There are some clays that conduct water well. So the first time the water is inspected there could be a problem. We are in an area where we do not have county wide zoning in place, and this is not an easy thing to implement. There are lots of places that are appropriate for these types of facilities. You don't have to put it where your uncle left you 10 acres. He said he appreciated the opportunity to present HB-791, and he hoped the committee would carefully consider it. Allow our local governments to have this local control over the things that happen in their own backyards.

EXECUTIVE ACTION ON HB-602

Discussion: C. Erickson said that the libraries offered an amendment to exempt them. She said the Legislative Council also had a problem with an issue in this bill. #1. the original bill applied only to county commissioners, but the House amended it to read "local government" which includes cities and towns. So to do this it needs to be codified in the municipal budget law. Secondly, some of these boards and commissions or governing entities have bonding authority. Port and Airport can issue bonds without election approval. The statute for them indicates that the bonds may be repaid with use of tax levies. Her concern is that if these entities have to have their budgets approved, so their taxes to be levied to pay those bonds, would be subject to local government approval. These bill says that even if bonds are issued with tax levies to repay them, the local government might not approve those levies each year to support those bonds. C. Erickson said she could not imagine a local government would do this because it would affect their bond rating, but the possibility exists the way the bill is written. This could make it hard to sell the bonds if the buyers knew that the taxes to repay the bonds are subject to the approval every year of the local governing body. She suggested adding amendment #5 (Exhibit #2). "Tax levies pledged to the payment of principal and interest on bonds issued by a commission, board, or governing entity must be approved by the local government." She added that Gordon Morris, MACo, did not feel this was a problem.

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SENATE LOCAL GOVERNMENT COMMITTEE

March 14, 1991

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Senator Beck said that Representative Driscoll had a problem with the general mill for the operation of the port authority. Is there a separation of the mill levy for the repayment of bonds, and the general mill levy for the operation of the port authority? C. Erickson said the statute says that port authorities that the bonds may be repaid from the revenues from revenue bonds, other sources, or they may be repaid by the tax levies authorized by the city and the county for the support of the port authority. The airport language is the same.

Senator Hammond said that the "local government" refers to the County Commissioners? C. Erickson said county or city commission. Senator Hammond asked if she had suggested taking municipalities out of this? C. Erickson said that the municipalities were amended into the bill in the House, but the codification instruction was not amended, so that the law would be amended in the municipal budget law. If you want to leave municipalities in, and she saw no problem with that, but the codification needs to be corrected.

Senator Hammond said that there is a limit on the mills because of I-105, so could this create problems? C. Erickson said port authorities have a limit of 2 mills. Senator Hammond asked if they can adjust the levy or is it the total levy in the county? C. Erickson said no that port authorities can levy 2 mills. Mr. Morris said that Senator Hammond was referring to I-105 provision that taxpayer liability is frozen at the 1986 liability level. This is applicable to counties and like taxing jurisdictions, if the cap is not reached you could increase a levy and offset it with a decrease somewhere else. This is a very real I-105 provision that would be applicable to airport, port, or any other entities. Libraries are outside of that because they are assumed to be a separate taxing jurisdiction all by themselves.

Senator Waterman asked if port authorities' 2 mills are an exemption to I-105? Mr. Morris said they are not. The port authority legislation was adopted at the same time that I-105 provisions were put in there, and it was not exempted from I-105. The exemption is not to have the vote of the people to authorize the mill levy under the provisions of I-105. There is another bill having to do with economic development that is tied to this to some extent. It has an I-105 sunset in there, but it has been amended out in this session. They are still governed under I-105.

Senator Hammond asked if libraries should be exempted because their tax levy would still be involved in the maximum the county to assess? Mr. Morris said he would argue that the libraries,

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SENATE LOCAL GOVERNMENT COMMITTEE

March 14, 1991

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according to the AG's opinion that was referred to the other day, are treated as a separate taxing jurisdiction. Understand that you have to have like units to start with, and then you can reduce in one and raise in another. The likeness must be a uniform and constant taxable value. You can't reduce road mills, and increase general fund mills. That would violate I-105. The same thing is true with libraries. You can't increase county general fund, and reduce libraries because the library levy is a county only levy similar to road levies. He would argue that the commissioners could not stay within the provisions of I-105 by using the library levy because it is a levy set and established by the library trustees, and so not under the governing and budgetary supervision authority of the county commissioners. They would only be talking about those budgets, fair, weed, bridge, etc., that they would be able to adjust up or down in order to meet the guidelines of I-105. Senator Hammond said because they were not under the governing bodies control when I-105 took effect? Mr. Morris said no because libraries are a separate taxing entity in and of themselves, like school districts. They are not subject to supervision and control of the mill levies by county commissioners.

Senator Beck asked if under this bill they would be under the scrutiny because school boards are elected officials, but libraries are not? Mr. Morris said that is why the libraries want to be amended out. Senator Beck asked Mr. Morris what he thought of C. Erickson's concern about the bonding? Mr. Morris said he talked to many people including county attorneys, and they did not feel that HB-602 jeopardized the bonding for port or airport authorities. They did not see a problem because bonding is sold on the ability and willingness, of the person presenting the bond, to repay. They did not see the reviewing of the budget to be a problem. If the committee has a problem he would support the amendment.

Amendments, Discussion, and Votes: Senator Beck moved to adopt the libraries amendments. The motion passed. Senator Beck moved to adopt the amendments proposed by Legislative Council Connie Erickson, (Exhibit #2). The motion passed.

Motion: Senator Beck moved to Concur in HB-602 as Amended. The motion carried, and was recorded as a roll call vote. Senator Beck will carry HB-602.

Amendments to House Bill No. 602
Third Reading Copy

Requested by Senator Bengtson
For the Committee on Local Government

Prepared by Connie Erickson
March 14, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 2

DATE 3-14-91

BILL NO. HB-602

1. Title, line 7.

Following: "ENTITY"

Insert: ", EXCEPT A BOARD OF TRUSTEES OF A PUBLIC LIBRARY,"

2. Title, line 9.

Following: ";

Insert: "PROVIDING AN EXEMPTION FOR TAXES LEVIED FOR BOND
PAYMENTS;"

3. Page 1, line 14.

Following: "commissions"

Insert: "-- exemption for bonds"

Following: "."

Insert: "(1)"

4. Page 1, line 16.

Following: "entity"

Insert: ", except a board of trustees of a public library,"

5. Page 1.

Following: line 19

Insert: "(2) Tax levies pledged to the payment of principal and
interest on bonds issued by a commission, board, or
governing entity must be approved by the local government."

6. Page 1, line 20.

Following: "."

Insert: "(1)"

7. Page 1.

Following: line 23

Insert: "(2) [Section 1] is intended to be codified as an
integral part of Title 7, chapter 6, part 42, and the
provisions of Title 7, chapter 6, part 42, apply to [section
1]."

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-14-91

Bill No. HB-602 Time 4:45

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON		
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: moved to Concur in HB-602 as
Amended.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 15, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 602 (third reading copy - blue), respectfully report that it be

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 15, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 602 (third reading copy - blue), respectfully report that House Bill No. 602 be amended and as so amended be concurred in:

1. Title, line 7.

Following: "ENTITY"

Insert: ", EXCEPT A BOARD OF TRUSTEES OF A PUBLIC LIBRARY,"

2. Title, line 9.

Following: ";

Insert: "PROVIDING AN EXCEPTION FOR TAXES LEVIED FOR BOND PAYMENTS;"

3. Page 1, line 14.

Following: "commissions"

Insert: " - exemption for bonds"

Following: ".

Insert: "(1)"

4. Page 1, line 16.

Following: "entity"

Insert: ", except a board of trustees of a public library,"

5. Page 1.

Following: line 19

Insert: "(2) Tax levies pledged to the payment of principal and interest on bonds issued by a commission, board, or governing entity must be approved by the local government."

6. Page 1, line 20.

Following: ".

Insert: "(1)"

7. Page 1.

Following: line 23

Insert: "(2) [Section 11 is intended to be codified as an integral part of Title 7, chapter 6, part 42, and the provisions of Title 7, chapter 6, part 42, apply to Section 11.]"